

## **REMARKS**

Claims previously designated as dependent on claim 76 have been amended to be dependent on claim 75 which is believed to be allowable. Claim 75 has been amended to specify that the protein has 95% identity to the recited sequences, and that the nucleic acid hybridizes under high stringency conditions to the DNA of the deposited plasmid. Support is found, e.g., in the second full paragraph on page 29 and the paragraph bridging pages 30 and 31 of the specification. None of the amendments made herein constitutes the addition of new matter. It is noted that claims similarly amended have been allowed in the parent application 09/346,470.

### **The Rejection Under Section 112, second paragraph**

Claim 75 has been rejected as indefinite for reciting "hybridize under at least moderate stringency conditions." The claim has been amended to specify high stringency conditions. These conditions are defined in the first partial paragraph on page 31 of the specification. It is submitted this amendment overcomes the rejection.

### **The Enablement and Written Description Rejections Under Section 112, first paragraph**

Claim 75 has been rejected as nonenabled and not in compliance with the written description requirement of Section 112, first paragraph, for a polypeptide which has 80% amino acid sequence identity with SEQ ID NO:40 or a polypeptide which is encoded by a nucleic acid which hybridizes at moderate stringency conditions to the deposited plasmid. Claim 75 has been amended to specify 95% sequence identity with SEQ ID NO:40 and to specify that the nucleic acid hybridizes at high stringency conditions to the deposited plasmid. Note that the specification fully enables this subject matter in that one skilled in the art would not be faced with undue experimentation in order to derive those protein sequences that are at least 95% identical to SEQ ID

NO:40. See, for example, pages 43 and 44 of the specification which clearly detail how conservative and non-conservative amino acid substitutions can be made without affecting insect steroid binding, as determined by routine assays known in the art. Furthermore, one skilled in the art would reasonably expect that a nucleotide sequence which hybridizes under high stringency conditions to the DNA of *B. tabacae* contained in the plasmid deposited under AGAL Accession No. NM00/12580 would encode a functional ecdysteroid receptor partner protein. Note that these stringency conditions are defined in the first partial paragraph on page 31 of the specification. Note also that reference to 95% sequence identity with SEQ ID NO:40 is specifically disclosed in the second full paragraph of page 29. Thus, both the enablement and written description requirements of Section 112 are met. The remaining claims are dependent on claim 75, and are therefore allowable with the allowance of claim 75. Withdrawal of the rejections is respectfully requested.

#### **Request for Rejoinder**

Rejoinder of the withdrawn claims listed herein is respectfully requested. The claims are dependent on claim 75 which is believed to be allowable.

#### **Conclusion**

This application being in condition for allowance, passage to issuance is respectfully requested.

If there any remaining issues related to patentability, the courtesy of a telephone interview is requested. The Examiner is invited to telephone the undersigned to arrange a mutually convenient time to discuss this application.

This amendment is accompanied by a Petition for Extension of Time (two months), and the United States Patent and Trademark Office is authorized to charge

Appl. No. 10/030,729  
Amdt. dated May 14, 2007  
Reply to Office Action of December 14, 2006

the amount of \$450.00 as required under 37 C.F.R. 1.17 to Deposit Account No. 07-1969. A Request for Continued Examination together with the appropriate fee of \$790.00. It is believed that this amendment does not necessitate the payment of any additional fees under 37 C.F.R. 1.16-1.17. If the amount submitted is incorrect, however, please deduct any deficiency for this submission and/or for any further extension of time required, or credit any overpayment to Deposit Account No. 07-1969.

Respectfully submitted,

/ellenwinner/

Ellen P. Winner  
Reg. No. 28,547

GREENLEE, WINNER AND SULLIVAN, P.C.  
4875 Pearl East Circle, Suite 200  
Boulder, CO 80301  
Telephone (303) 499-8080  
Facsimile: (303) 499-8089  
Email: [winner@greenwin.com](mailto:winner@greenwin.com)  
Attorney docket No. 53-99A